

**DECISION**



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**THE COMPTROLLER GENERAL  
OF THE UNITED STATES**  
WASHINGTON, D. C. 20548

*[Entitlement to Reimbursement of]*

FILE: B-196292

DATE: July 22, 1980

MATTER OF: Greg T. Montgomery - [Relocation expenses]

**DIGEST:**

Employee of United States Forest Service claims travel and relocation expenses in connection with move to duty station at Payette National Forest, Idaho, where retroactive travel authorization was issued on basis that break in Government service was result of erroneous advice by agency officials that he had to resign former position at Logan, Utah, in order to accept new position. Payment may not be allowed as 5 U.S.C. 5724 and 5724a, which provide for reimbursement of travel and relocation expenses, require that the change in permanent duty station be without a break in service. The Government is not responsible for any erroneous advice or acts of its officers, agents, or employees.

This action is in response to a request by Mr. H. Larry Jordan, Authorized Certifying Officer of the United States Department of Agriculture, for an advance decision concerning the entitlement of Mr. Greg T. Montgomery, an employee of the United States Forest Service, for reimbursement for travel and relocation expenses incurred in connection with his employment at the Payette National Forest, New Meadows, Idaho, subsequent to a break in Government service due to his resigning from his former position with the Forest Service in Logan, Utah.

The record shows that Mr. Montgomery held a temporary position with the United States Forest Service Intermountain Forest and Range Experiment Station in Logan, Utah, when he was offered a permanent position as a Supervisory Forest Technician, GS-6, at the Payette National Forest (National Forest) in New Meadows, Idaho. Mr. Montgomery accepted

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the offer of employment at the National Forest and he was to report for duty there on July 16, 1978.

Mr. Montgomery alleges that when he inquired of agency officials at his former duty station at Logan, Utah, as to the procedures involved in transferring to his new duty station at New Meadows, Idaho, and whether he was entitled to reimbursement for expenses incurred incident to the relocation, he was advised that as a temporary employee he could not transfer to a new duty station but was required to submit a letter of resignation and that he was not entitled to travel and relocation allowances. He also alleges that he was further advised that he had to be present at his old duty station on the effective date of his resignation.

Based on this advice, Mr. Montgomery resigned from his position with the Forest Service at Logan, Utah, effective July 7, 1978. He states that he terminated his employment one week before the date he was to report for duty at the National Forest so that he would have time to travel there and find a place to live.

The Department of Agriculture has not in any way disputed or questioned Mr. Montgomery's statements as to the circumstances surrounding his resignation from his position at Logan, Utah.

In March 1977, Mr. Montgomery brought the circumstances surrounding his resignation to the attention of the appropriate agency officials at the Payette National Forest. He stated in part that agency officials should have correctly advised him that he could have transferred to his duty station at the National Forest instead of causing him to resign his former position. As a result of these statements the Administrative Officer at the National Forest issued Mr. Montgomery a Travel Authorization on April 4, 1979, which authorized reimbursement for expenses incurred in connection with his relocation from Logan, Utah, to New Meadows, Idaho. The travel authorization contains the following notation:

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"Authorization is post approved. Due to administrative error, employee was not advised he was eligible for reimbursement of transfer of station expenses so form 6500-140 was not prepared. Transfer of Station Travel Authorization would have been approved prior to travel had 6500-140 been submitted."

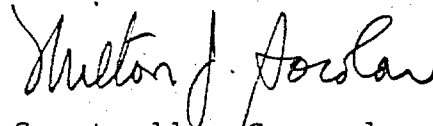
On the basis of this post approval, Mr. Montgomery claims reimbursement in the total amount of \$1,248.95 for expenses he incurred in relocating to the vicinity of the National Forest.

Our Office has held that reimbursement under 5 U.S.C. 5724 and 5724a for the expenses of a transfer from one official station to another requires that the change in the permanent duty station of an employee be without a break in service. B-164051, July 10, 1968, 54 Comp. Gen. 747 (1975), Wallace E. Boulton, B-192817, December 18, 1978. Since Mr. Montgomery had a break in Government service prior to his arrival at his duty station at the National Forest, he is not entitled to reimbursement of travel and relocation expenses. While Mr. Montgomery was issued a retroactive travel authorization in view of the belief by the administrative officer at the National Forest that he would have been authorized reimbursement for transfer of station expenses but for the erroneous advice provided Mr. Montgomery which resulted in his break in service, such erroneous advice does not provide a legal basis for reimbursement. It is unfortunate that Mr. Montgomery was not transferred to his new duty station without a break in service. Although such a relocation is ordinarily accomplished by a single conversion action we know of nothing that precludes an employee from resigning and accepting a new appointment, with or without a break in service. While the advice Mr. Montgomery received may have induced him to arrange for his relocation in a manner that resulted in a break in service, it is well established that in the absence of specific statutory authority, the United States is not liable for the negligent or erroneous acts of its officers, agents, or employees,

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even though committed in the performance of their official duties. William W. Treptow, B-187826, February 24, 1977. Jan Unterzuber, B-193728, August 10, 1979, and court cases cited therein.

In view of the above, Mr. Montgomery's claim for reimbursement may not be certified for payment.

A handwritten signature in cursive script, reading "Milton J. Jordan".

For the Comptroller General  
of the United States